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# TOWN OF BURLINGTON

## Meeting Minutes

Email minutes to [meetings@burlington.org](mailto:meetings@burlington.org) or Bring to the Clerk's Office. Thank you

Minutes need to be posted within 30 days or 2 meetings of the board – Draft minutes can be posted and revised at a later date

DEPT./BOARD: Town of Burlington, Board of Appeals  
DATE: April 18, 2023  
TIME: 7:00 P.M.  
PLACE: Town Hall Main Hearing Room, 2<sup>nd</sup> Floor, 29 Center Street

MEMBERS IN ATTENDANCE: Chairman, Charles Viveiros, Vice Chairman, Mark Burke, John Sullivan, Joe Currier, Jeff DiBona, Clerk, & Ray Blenkhorn. Absent: Jeremy Harrington

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### Minutes of the meeting of the Board of Appeals Burlington, MA

Chairman Charles Viveiros called the meeting to order at 7:30 p.m.

#### **23-5: 41 Burlington Mall Road**

Applicant Jason Parillo requested to have his public hearing continued to Tuesday, May 2, 2023.

Vice Chair Mark Burke motioned to continue the hearing until May 2, 2023 at or after 7:30 p.m.

Mr. Sullivan seconded the motion.

All in favor. (5-0)

#### **23-6: 1 Harvard Avenue**

Applicant Jatin Chopra of Boston Realty requested to withdraw his application without prejudice.

Vice Chair, Mark Burke motioned to withdraw the application for 1 Harvard Avenue without prejudice.

Mr. Blenkhorn seconded the motion.

All in favor. (5-0)





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### 23-7: 22 Sunset Drive

Applicant Jatin Chopra of Boston Realty requested to withdraw his application without prejudice.

Vice Chair, Mark Burke motioned to withdraw the application for 22 Sunset Drive without prejudice.

Mr. Sullivan seconded the motion.

All in favor. (5-0)

### 23-9: 6 Wayside Road – “medspa 810”

Applicant Brian Brinkers of ACME Sign Corporation presented to the board a petition for a variance for a sign permit to install one (1) wall sign proposed to be 2’7” H x 15’3” L (39.39 sq. ft. +/-) on the front elevation of the building, would be in compliance with the Town Zoning By-laws, but there are prior ZBA decisions which state in part “that no additional signage on the building(s) even if by-right shall be permitted without appeal of the Board.”

### Questions from the board:

Vice Chairman Burke asked the applicant if he had additional photos of the sign that he could look at.

Mr. DiBona asked Mr. Brinkers if there was a glass door.

Mr. Brinker’s replied, yes there is.

Chairman Viveiros asked Mr. Brinkers what was there before?

Mr. Brinker’s replied to Chairman Viveiros that mall people were using it as a staging area.

Mr. DiBona informed the board that “Nothing Bunt Cakes” was located there prior. Mr. DiBona also confirmed that the prior sign for “Nothing Bunt Cakes” measured 20” x 14” located on the front (south) elevation of the building and one (1) projecting sign measuring 12” x 3’0” on the front (south) elevation of the building per the denial letter dated August 21, 2019 from the building inspector.

Chairman Viveiros asked the applicant if the sign’s measurement of 15’3” H x 2’7” L was accurate?

Mr. Brinker’s replied that the descending “p” in “medspa” adds to the square footage. Mr. Brinker explained that the new sign is smaller than the prior sign.





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Chairman Viveiros opened the meeting to a public hearing.

No one in audience to oppose.

Mr. Blenhorn motioned to close the public hearing.

Mr. DiBona seconded the motion.

All in favor (5-0)

Mr. DiBona motioned to approve the application (#23-9) for one (1) wall sign to read “medspa810” measuring 15’3” H x 2’7” L as shown on plans submitted on November 9, 2022 with the special conditions of not to exceed 90 lumens per square foot and no other signs even if “by-right”.

Vice Chairman Burke seconded the motion.

All in favor. (5-0)

### **23-10: 8 Wayside Road – “JARED”**

Applicant Brian Brinkers of ACME Sign Corporation presented a petition to the board to install four (4) new tenant wall signs measuring 3’3” H x 9’1” L (29.5 sq. ft.) to read “JARED” on each elevation of the building. The sign as proposed would be in violation of the Town Zoning By-laws: ZBL – Article VIII: Sign Regulations:

13.1.3 General Business Districts (BG), Neighborhood Business Districts (BN), Limited Business Districts (BL), & Continuous Traffic Business Districts (BT).

13.1.3.2 Wall Signs: One wall sign shall be permitted for each business side of a building and direct entrance into a store.

### **Questions from the board:**

Mr. Sullivan asked the applicant if he’s making the existing signs smaller?

Mr. Brinkers replied that they are replacing & rebranding and the signage is considerably smaller. Mr. Brinkers also stated that only one (1) side doesn’t have a direct entrance and it’s on the right side of the building.

Mr. Sullivan asked the applicant if there was a sign there prior?





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Mr. Brinkers replied, yes, it's there now.

Chairman Viveiros opened the floor to a public hearing.

No one in audience to oppose.

Vice chairman Burke motioned to close the public hearing.

Mr. Currier seconded the motion.

All in favor. (5-0)

Mr. DiBona motioned to approve application (#23-10) for four (4) new wall signs to read "JARED" measuring 3'3" H x 9'1" L on each elevation of the building as shown on plans submitted on August 15, 2022, with special conditions of not to exceed 90 lumens per square foot and no other signs even if "by-right".

Vice chairman Burke seconded the motion.

All in favor. (5-0)

**Other business matters: none.**

Chairman Viveiros asked the board for a motion to approve the minutes dated March 21, 2023.

Vice chairman Burke motioned to approve the minutes for March 21, 2023.

Mr. Sullivan seconded the motion.

All in favor. (5-0)

Chairman Viveiros asked the board for a motion to approve the minutes dated April 4, 2023.

Mr. DiBona motioned to approve the minutes for April 4, 2023.

Mr. Sullivan seconded the motion.

All in favor. (5-0)

Chairman Viveiros asked the board for a motion to adjourn.





# TOWN OF BURLINGTON

## *Meeting Minutes*

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Mr. Sullivan motioned to adjourn.

Mr. Blenkhorn seconded the motion.

All in favor. (5-)



April 13, 2023

Charles Viveiros  
Burlington Board of Appeals  
Burlington Town Hall  
29 Center Street  
Burlington, MA. 01803

RE: 1 Harvard Avenue

Dear Mr. Viveiros:

We are Tom and Carolyn Alessi (nee Govoni), the residents of 9 Prouty Road. Tom has lived at # 9 for over 30 years and Carolyn has lived on Prouty for 60 years having been raised there. The home we live in has been in the Govoni family for over 100 years. We own the home and some 8 acres of property running between Prouty and Holden Ave. This property and this neighborhood mean a great deal to us. It is the legacy of our families, and we consider ourselves stewards of some of the few remaining acres of undeveloped land in Burlington. We vehemently oppose the granting of a variance directly across the street to permit two houses on a lot zoned for one. Furthermore, it is our understanding that the Town already owns the first 13 feet bordering Prouty.

As you know, M.G.L. Ch. 40A §10 only permits the Zoning Board of Appeals to legally grant a variance when there is a substantial hardship, financial or otherwise owing to circumstances relating to the soil conditions, shape or topography of the land not generally affecting the zoning district and without substantial detriment to the public good.

There is nothing about the land at 1 Harvard Ave that would qualify as a "substantial hardship". The property has supported a single-family home since 1958 and the soil conditions, shape and topography continue to do so. It is well settled that "substantial hardship" must be related to the land itself and that the need for a variance is not merely personal to the landowner. *See Lydon v. Town of Milton Bd. Of Appeals*, 2012 WL 1572128 \*1, \*14 (Mass. Land Ct. May 3, 2012). Moreover, *Lydon* notes that a decrease in land value does not qualify as a "substantial hardship" nor does a landowner's desire to maximize his profits from the land. *See Perez v. Board of Appeals of Norwood*, 54 Mass. App. Ct. 139 (2002). Although the statute does cite financial hardship as a permissible consideration, courts have made it clear that this does not mean that the inability to maximize the possible economic gain theoretically available to be extracted from a lot constitutes a valid hardship. *Hoffman v. Cambridge Zoning Bd. Of Appeals*, 2012 WL 2014271 \*1, \*20 (Mass. Land Ct. June 5, 2012). In this case, the owner's desire to realize greater profit from the sale of two homes over one is not a valid reason for the granting of a variance based on substantial hardship.



appeals clerk <appealsclerk@burlington.org>

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## Variance for 22 Sunset Dr.

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jo-ann feeley <jo.feeley@yahoo.com>

Wed, Apr 5, 2023 at 1:59 PM


To: "Appealsclerk@Burlington.org" <appealsclerk@burlington.org>

I have been living at 23 Sunset Drive for approximately 40 years, my wife her whole life. We feel this dividing of the lot across the street [22 Sunset] is terrible. It derogates from the intent of the bylaw, and is not a good fit for the neighborhood.

Thankyou: Joe and Jo-Ann Feeley

A variance at 1 Harvard represents a detriment to the public good. The impact on the surrounding neighborhood will be significant. Prouty Road is already heavily traveled, and the corner of Harvard and Prouty is a bus stop for the neighborhood children. The lot will likely have to be cleared to make way for two houses eliminating trees that are likely almost a century old. Allowing our zoning laws to be circumvented establishes a detrimental precedent for the entire Town of Burlington. Thank you for your consideration.

Regards,

A handwritten signature in black ink, appearing to read 'Tom Alessi', written over the word 'Regards'.

Tom Alessi  
9 Prouty Rd.

A handwritten signature in black ink, appearing to read 'Carolyn Alessi', written above the printed name.

Carolyn Alessi, Esq.



April 12, 2023

Mr. Charles Viveiros  
Burlington Board of Appeals  
Burlington Town Hall  
29 Center Street  
Burlington, MA 01803  
RE: 1 Harvard Ave.

Dear Mr. Vivieros:

My name is Kathleen Govoni. I am a lifelong resident of Burlington (just shy of 90 years old) and a resident at 17 Prouty Road for over 60 years. I wish to express my opposition to the proposal to subdivide the property located at 1 Harvard Avenue to build 2 houses on less than  $\frac{1}{4}$  acre lots.

As you can imagine, I have had a front row seat to many changes in Burlington. I have watched my community grow from a tiny, rural town where I did not have indoor plumbing as a child to the booming town that Burlington has become. I remember when Route 128 came through town and the changes that brought, as well as the excitement over a world class hospital like Lahey coming to our little town. Burlington has changed a great deal and I recognize this as an overall good progression. However, along with the change has come an almost complete loss of open space, large homes that are too expensive for young couples to start off in and traffic that is unbearable.

Now we are faced with a push to abandon our  $\frac{1}{2}$  acre zoning which has been an important part of retaining some sense of the Burlington we have known. To allow multiple houses on  $\frac{1}{4}$  acre lots is to change the character of the neighborhood I live in. There is no valid reason for such a change. 1 Harvard Avenue has been occupied by a single-family home since the 1950's. There is no pressing need for a change just for the recent buyers to double their profit at the expense of the neighborhood. Prouty Road is an extremely busy road, and the corner of Prouty and Harvard is a bus stop for the children of the neighborhood. Adding either 2 houses to Harvard or 1 to Harvard and 1 to Prouty which ever is proposed will only add to the issues we face.

I urge you to consider the impact this request to subdivide the lot will have on our neighborhood and request that you deny the application for a variance.

Sincerely yours,

Kathleen Govoni  
17 Prouty Rd



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April 10, 2023

Burlington Board of Appeals  
Attention: Charles Viveiros  
Burlington Town Hall  
29 Center Street  
Burlington, MA 01803

Dear Mr. Viveiros and Board of Appeals,

It has come to my attention that the developer who purchased the property at 1 Harvard Avenue has been denied a permit (by our Building Inspector) to build two homes on this property and now has filed for a variance. This property currently holds only one home. He wants to build one house on Harvard Avenue and one on Prouty Road, because this property is a corner lot.

Many of us neighbors never received notification of this and understand that a meeting will take place on 4/18/2023 to dispute our building inspectors decision.

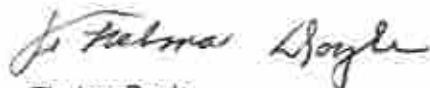
As well as many of the families in our neighborhood ask that you firmly deny this variance. We do not want the quality of our neighborhood changed by having building lots be 1/4 of an acre and having homes built much too close to each other

I firmly request that you deny this variance petition and help keep our neighborhood in the original condition per our by-laws.

Please help keep Burlington beautiful and abide by our building inspectors original decision.

Thank you for your time and consideration which is truly appreciated.

Respectfully yours,



Thelma Doyle

1 Chester Avenue

Burlington, MA 01803

To: Burlington Board of Appeals

Burlington Town Hall

Attn: Chairman Charles Viveiros and fellow Appeal Board Members

29 Center St. Burlington MA 01803

From: Katelyn and Travis Mustone

2 Harvard Ave. Burlington MA 01803

Phone: 781-820-2242

Re: Property at 1 Harvard Ave, Burlington MA

Dear Mr. Viveiros,

I am writing this letter in regards to the property at 1 Harvard Ave and the appeal for a variance to subdivide a standard lot. It is my understanding Mr. Chopra is asking for a variance to build two homes on the property.

I have lived at my residence for 39 years and live directly across from 1 Harvard Ave. My family owned the home prior to myself since the early seventies. I have an identical lot to 1 Harvard Ave with a corner lot which is situated on Harvard Ave and Prouty Rd. I am completely against Mr. Chopra building 2 homes on that lot. Many of the neighbors have identical lots and if this variance was granted this would set a precedent for other residents to do the same and would change the layout of our beloved neighborhood and Burlington itself.

The corner of the lot on 1 Harvard Ave/Prouty Rd, is also the site of 3 school bus stops. This project I would assume would go far into the fall/winter and it would be extremely unsafe for the children to walk to and from the school bus stop on the corner of Prouty Road and 1 Harvard Ave. Prouty Road is a major cut through for residence from Billerica and Burlington and is a high traffic road. With the congestion of construction on the sidewalks and the many construction vehicles on the property, it would create a highly unsafe environment for the many children and parents who walk to that school bus stop every morning and afternoon. Another issue I have is cutting down 100 years of trees on the lot which is about 0.25 acres. This wooded area gives myself and other surrounding neighbors' privacy and we enjoy the trees not looking at a home. Many of the abutting residents have lived in this neighborhood for 30 plus years and as you saw with the turnout last evening 4/4/23, we highly value each other and our beloved neighborhood. I am extremely upset that this layout could be significantly changed by a sub division and would allow other residents to seek the same variance for their standard lots.

I also believe Mr. Chopra violated Burlington MA bylaws. I received a certified legal document on 3/28/23 stating there was an appeals board hearing on 4/4/23 at 7:30. I received this notice 11 days prior to the meeting and as of 4/5/23 I haven't received any other documentation regarding the meeting on 4/18/23 or the matter itself. That would mean again we did not receive our 2 week notice. Mr. Chopra also swapped the addresses on the properties when he sent them out which I am sure you can understand leaves a bad taste in the residents' mouths and looks rather suspicious. I do not feel that I have been notified correctly about this matter in any way.

I ask you to please decline Mr. Chopra's appeal for a variance for a subdivision of a normal 20,000 sqft lot. Thank you for your time.

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4/5/2023

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TOWN CLERK  
BURLINGTON, MA

Best Regards,

*Kathryn Mustone*

*Travis Mustone*

Katelyn Mustone and Travis Mustone

TO: Burlington Board of Appeals  
Burlington Town Hall  
29 Center Street  
Burlington, Ma 01803  
781-270-1600

April 03 2023

FROM: Karen Cooper  
69 FRANCIS WYMAN RD  
BURLINGTON, MA 01803  
781-272-2510 (h) 781-325-5664 (c)

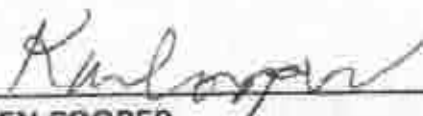
RE: Property at 1 Harvard Ave, Burlington, Ma

It is my understanding that the property at 1 Harvard Ave. is on the Board of Appeal's agenda as a party is trying to build two houses on a normal 20,000 sqft lot. The house is situated at the corner of Harvard Ave. and Prouty road.

The house was purchased by my parents Martin and Elizabeth Walsh in late 1964. After my parents were both deceased in 2017, my siblings and I asked if the town would allow the lot to be divided into two lots. We was told NO. The residents of a similarly situated house across the street at 2 Harvard Ave. had also asked if they could subdivide their lot. They were also told NO.

Many years have gone by and the town of Burlington bylaws regarding house lot size has remained unchanged. The lot has not changed. I feel that this party who now wishes to subdivide the Harvard Ave lot is not acting in the best interests of the town's residents.

**It is my firm belief that this attempt to subdivide a standard builder's lot severely derogates from the intent of the bylaw and thus does not warrant a variance.**

  
\_\_\_\_\_  
KAREN COOPER



appeals clerk &lt;appealsclerk@burlington.org&gt;

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**22 Sunset Drive**

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Mon, Apr 10, 2023 at 12:44 PM

Paul Hogan <paul.hogan@macom.com>  
To: "Appealsclerk@Burlington.org" <Appealsclerk@burlington.org>

To whom it may concern,

My wife Marsha and I have been residents of 17 Sunset Drive in Burlington for over 31 years and we have enjoyed the space, privacy and aesthetics that the neighborhood offers. It has recently come to our attention that the current owner of 22 Sunset Drive wants to get a variance to split the lot in order to build 2 homes on it. We are writing this email to express our strong opposition to the owner's plan as it derogates from the intent of the bylaw and is not a good fit for the neighborhood. We plan to attend the next Town Hall meeting regarding this matter to voice our opposition. Thank you for your consideration.

Sincerely,

Paul and Marsha Hogan  
17 Sunset Drive  
Burlington

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